

REMARKS

Claims 1-15 are pending in the present application. Claims 1, 4, 6, 9, 11 and 14 have been amended herewith. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 103, Obviousness

The Examiner rejected Claims 1-15 under 35 U.S.C. § 103 as being unpatentable over Hobart (US Patent Application No 2002/0178255), in view of Blau (US Patent Application No 2004/0059644). This rejection is respectfully traversed.

Applicants urge that the cited Blau reference is not a valid 35 U.S.C. § 103 reference with respect to the present application. The filing date of the present application is 06/25/2001. The U.S. filing date of the cited Blau reference (US Patent Application No 2004/0059644) is 09/22/2003 which is more than two years after the filing date of the present application. While this Blau US non-provisional application is a continuation-in-part of PCT/IL02/00216, such PCT application has a filing date of 03/19/2002, which is also after the filing date of the present application. Per the public PAIR system, this Blau non-provisional application (US Patent Application No 2004/0059644) also claims benefit of a provisional application No. 60/277,064 filed on 03/20/2001. While this provisional application predates the filing date of the present application, there are two problems associated with this provisional application. First, since the non-provisional application was filed more than one (1) year after the filing date of the provisional application, the non-provisional application does not get the benefit of the provisional application filing date¹. Second, this provisional application makes no mention of the claimed features recited in Claim 1 of the present application – in particular there is no mention of any type of priority being given to requests from clients which are contributing resources to peer-to-peer sharing (see attached Appendix I for a copy of such provisional application).

¹ A provisional application for patent (provisional application) has a pendency lasting 12 months from the date the provisional application is filed. The 12-month pendency period cannot be extended. Therefore, an applicant who files a provisional application must file a corresponding non-provisional application for patent (non-provisional application) during the 12-month pendency period of the provisional application in order to benefit from the earlier filing of the provisional application. In accordance with 35 U.S.C. § 119(e), the corresponding non-provisional application must contain or be amended to contain a specific reference to the provisional application within the time period and in the manner required by 37 CFR 1.78.

Thus, as the cited Blau reference is being used to establish a teaching of this (missing) claimed priority feature, and since:

(1) the actual cited Blau reference does not predate the filing date of the present application;

(2) the CIP application does not predate the filing date of the present application;

(3) the non-provisional application's claim to priority of the provisional application is defective as the non-provisional application was filed more than one year from the filing date of the provisional application (and hence does not get the benefit of the filing date of the provisional application); and

(4) even if the cited Blau non-provisional application could claim benefit of the filing date of the provisional application, such provisional application does not teach or otherwise suggest the priority features alleged to be taught by the cited Blau reference,

it is respectfully submitted that the cited Blau reference is not a valid 35 U.S.C. § 103 reference, with respect to the present application, for establishing the claimed priority feature. Therefore, a prima facie case of obviousness has not been established with respect to Claim 1, and thus Claim 1 has been erroneously rejected.

Applicants traverse the rejection of Claims 2-15 for similar reasons to those given above with respect to Claim 1.

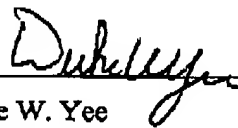
Therefore, the rejection of Claims 1-15 under 35 U.S.C. § 103 has been overcome.

II. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: January 30, 2006

Respectfully submitted,



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APPENDIX I
SHEET 1 of 23/20/01
U.S. PTOPlease type a plus sign (+) inside this box ☒Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.
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U.S. Patent and Trademark Office U.S. DEPARTMENT OF COMMERCE**PROVISIONAL APPLICATION FOR PATENT COVER SHEET**
This is a request for filing a PROVISIONAL APPLICATION FOR PATENT under 37 CFR 1.53(a).

INVENTOR(S)			
Given Name (first and initials (if any))	Family Name or Surname	Residence (City and other State or Foreign Country)	
ABRAHAM	BLAU	TEL AVIV, ISRAEL	
<input type="checkbox"/> Additional inventors are being named on this _____ separately numbered sheets attached hereto			
TITLE OF THE INVENTION (250 characters max)			
P2P DIGITAL-ITEMS EXCHANGE SYSTEM			
Direct all correspondence to: CORRESPONDENCE ADDRESS			
<input type="checkbox"/> Customer Number _____ OR Type Customer Number here		<input type="checkbox"/> Place Customer Number Bar Code Label here	
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Country ISRAEL		Telephone 972-3-641425	Fax 972-3-642425
INCLUDED APPLICATION PARTS (check all that apply)			
<input checked="" type="checkbox"/> Specification Number of Pages 1		<input type="checkbox"/> CD(s) Number _____	
<input type="checkbox"/> Drawing(s) Number of Sheets _____		<input type="checkbox"/> Other (specify) _____	
<input type="checkbox"/> Application Data Sheet, See 37 CFR 1.78			
METHOD OF PAYMENT OF FILING FEES FOR THIS PROVISIONAL APPLICATION FOR PATENT			
<input checked="" type="checkbox"/> Applicant declares small entity status, See 37 CFR 1.27. A check or money order is enclosed to cover the filing fees.		FILING FEE AMOUNT (\$) 75	
<input type="checkbox"/> The Commissioner is hereby authorized to charge filing fees or credit any overpayment to Deposit Account Number: _____			
<input checked="" type="checkbox"/> Payment by credit card. Form PTO-504 is attached.			
The invention was made by an agency of the United States Government or under a contract with an agency of the United States Government.			
<input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes, the name of the U.S. Government agency and the Government contract number are: _____			

Respectfully submitted,

SIGNATURE ABRAHAM BLAU

Date 03/21/04

TYPED or PRINTED NAME ABRAHAM BLAU

REGISTRATION NO.

(if appropriate)

DocId Number:

TELEPHONE 972-52-993586

USE ONLY FOR FILING A PROVISIONAL APPLICATION FOR PATENT

This collection of information is required by 37 CFR 1.51. The information is used by the public to file (and by the PTO to process) a provisional application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 5 hours to complete, including gathering, preparing, and submitting the complete provisional application to the PTO. Time will vary depending upon the individual case. Any comments on the burden of this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Box Provisional Application, Assistant Commissioner for Patents, Washington, D.C. 20231.